

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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|---------------------------|---|----------------------------|------------------|
| IVY BYRD GAINES, |) | CASE NO. | C08-0050-TSZ-MAT |
| |) | | (CR03-496-TSZ) |
| Petitioner, |) | | |
| |) | | |
| v. |) | | |
| |) | ORDER DENYING PETITIONER'S | |
| UNITED STATES OF AMERICA, |) | MOTION FOR APPOINTMENT OF | |
| |) | COUNSEL | |
| Respondent. |) | | |
| _____ |) | | |

This matter comes before the Court on petitioner's motion for appointment of counsel. The Court, having reviewed petitioner's motion for appointment of counsel, and the balance of the record, does hereby find and ORDER as follows:

(l) Petitioner's motion for appointment of counsel (Dkt. No. 2) is DENIED. There is no right to have counsel appointed in cases brought under 28 U.S.C. § 2255 unless an evidentiary hearing is required. *See Terrovona v. Kincheloe*, 852 F.2d 424, 429 (9th Cir. 1988); *Brown v. Vasquez*, 952 F.2d 1164, 1168 (9th Cir. 1991), *cert. denied*, 503 U.S. 1011 (1992); and Rule 8(c) of the Rules Governing Section § 2255 Cases in the United States District Courts.

The Court may exercise its discretion to appoint counsel for a financially eligible individual

01 where the "interests of justice so require." 18 U.S.C. § 3006A. However, petitioner fails to
02 satisfy the Court that the interests of justice are best served by appointment counsel at this
03 juncture. If the Court later orders an evidentiary hearing, the Court will appoint counsel if
04 petitioner qualifies.

05 (2) The Clerk shall direct copies of this Order to petitioner and to the Hon. Thomas
06 S. Zilly.

07 DATED this 31st day of January, 2008.

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09 Mary Alice Theiler
10 United States Magistrate Judge
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